

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

IN RE: : Case No. 17-31795-LTB

BESTWALL LLC, : Chapter 11

Debtor. : Charlotte, North Carolina

: Thursday, January 20, 2022

: 9:37 a.m.

: :

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE LAURA TURNER BEYER,  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES (via Teams):

For the Debtor: Robinson, Bradshaw & Hinson, P.A.  
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1 That's all I have, your Honor.

2 THE COURT: All right. Thank you.

3 With that, the Court will take a recess and come back  
4 and tell you what we're going to do.

5 Thank you.

6 (Recess from 4:20 p.m., until 4:53 p.m.)

7 AFTER RECESS

8 (Call to Order of the Court)

9 THE COURT: All right. We are back in the Bestwall  
10 case, having heard argument by the parties on the Motion to  
11 Compel Production of Documents Listed on the Debtor's Privilege  
12 Log and the debtor's response thereto.

13 Let me give you my thoughts about where we are on that  
14 and start by recognizing, I think, right out of the gate that  
15 the debtor has provided a tremendous amount of information on  
16 the privilege logs. There is no dispute about that. However,  
17 I agree with many of the deficiencies that were pointed out in  
18 the log and problems with the log that were pointed out by the  
19 ACC and the FCR in their pleadings and at today's hearing, I  
20 think the most obvious one being the one that Mr. Donlon  
21 specifically focused on, which is the 188,000 identical  
22 descriptions for those, that many entries. And that strikes  
23 the Court as problematic and those descriptions need to be  
24 cleaned up and made more specific so one can determine from the  
25 face of the description if the privilege has been properly

1 alleged. I think, as Ms. Bradley pointed out in her argument,  
2 the descriptions in some of the cases cited by Mr. Jones are  
3 far more detailed and would be more along the lines of what the  
4 Court thinks is appropriate and what the Court would be looking  
5 for, you know. The, there was reference to a description of  
6 draft settlement documents, for example, and the debtor's log  
7 doesn't plead any description with that amount of specificity.

8           The other example that was discussed today was failure  
9 to list authors of documents and while I understand and  
10 appreciate that it may be difficult for, the example that was  
11 thrown out, an Excel spreadsheet, to determine who an author  
12 is, I, I get that, but at the same time I don't understand. It  
13 strikes me as a little difficult to claim privilege for a  
14 document if you are unsure who the author is. And so the  
15 debtor should probably revisit some of those documents or  
16 privilege logs. Excuse me.

17           But I think at the end of the day what the debtor  
18 requested rather than -- the debtor, I believe, requested that  
19 I deny the motion today or order a meet and confer and I think,  
20 not unlike the situation in which we found ourselves with  
21 respect to the debtor's motion to enforce the personal injury  
22 questionnaire, it seems to me that it would be reasonable, as  
23 the objecting claimants requested for that motion, to give the  
24 debtors the opportunity to meet and confer again one more time  
25 with the ACC and the FCR before the Court grants the motion

1 that's on the table for today. I think that would be  
2 appropriate.

3 And so what I'm going to do is to continue this  
4 hearing until February 17th, which I believe is the next  
5 regularly scheduled hearing date for a Bestwall hearing, and  
6 the Court will conduct a status hearing that day.

7 And, Mr. Jones, let me just be clear that the Court's  
8 expectation is that whatever progress and changes the debtor  
9 plans to make in response to and reaction to a meet and confer  
10 and today's hearing, that those changes need to be made to the,  
11 the privilege log before we come back for the status hearing on  
12 February 17th. In other words, what I don't want to hear when  
13 we come back for a status hearing on the 17th is that, "We plan  
14 to do this or that." It needs to be done. Because as the ACC  
15 and the FCR pointed out, time is of the essence at this point  
16 and unfortunately, that's where we find ourselves.

17 So the other thing I would add is if anybody wants to  
18 file any form of supplemental pleading prior to that February  
19 17th hearing date, I would direct all of the parties to do that  
20 by 5:00 on Monday, February 14th, and then we will go forward  
21 on February 17th and see where we are. We will treat that as a  
22 status hearing, though. And, and, you know, the Court will,  
23 you know, further consider in light of the status update the,  
24 the motion at that continued hearing on February 17th.

25 So are there any questions about that?